

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

RODNEY BROWN,)	
)	
Plaintiff,)	
)	Cause No. 4:18-CV-389-MTS
v.)	
)	
CITY OF ST. LOUIS, <i>et al.</i>)	
)	
Defendants.)	
)	

**DEFENDANTS’ STATEMENT OF UNCONTROVERTED MATERIAL FACTS
IN SUPPORT OF THEIR MOTION FOR SUMMARY JUDGMENT**

COME NOW Defendants Matthew Boettigheimer (“Boettigheimer”), Steven Korte (“Korte”), Joseph Steiger (“Steiger”), Phil Harden (“Harden”) (referred to herein collectively as the “Individual Defendants”) and the City of St. Louis (“City”), by and through counsel, and for their Statement of Uncontroverted Material Facts in Support of their Motion for Summary Judgment, state as follows:

The following material facts are set forth for the purpose of this Motion for Summary Judgment only:

1. On March 11, 2016 Plaintiff Rodney Brown (“Brown”) attended a campaign rally for then Presidential Candidate Donald Trump at the Peabody Opera House (“Peabody”). Ex. B, Deposition of Boettigheimer, p. 38; Ex. C, Deposition of Rodney Brown, pp. 13-14.
2. Prior to the event, thousands of people waited in a line outside the Peabody that stretched down 14th Street and wrapped east on Clark Street. Ex. C, Brown, pp. 18-20; Ex. G, Deposition of Mark Comfort, pp. 8, 15.

3. City Police Officers Boetigheimer and Korte were assigned to work the interior of the Peabody Opera House during the rally. Ex. B, p. 38; Ex D, Deposition of Korte, p. 21.
4. When Brown arrived inside the Peabody he took a seat “very close to the front of the auditorium” in the third row, the first row open to the public, just a few seats over from the center aisle. Ex. G, p. 16; Ex. C, p. 25.
5. Exhibit A is a video recording that fairly and accurately depicts a portion of the events that occurred at the Trump rally on March 11, 2016. Ex. A; Ex. C, p. 31.
6. After remarks by introductory speakers, Trump took the stage and began speaking to the seated audience. Ex. G, pp. 22-25; Ex. C, p. 41; Ex A.
7. Several minutes into Trump’s remarks, Brown very loudly shouted “hahahaha!,” which caused Trump to stop speaking. Ex. C, pp. 29-30, 32; Ex. A (00:02); Ex. G, pp. 26-27.
8. After Brown’s outburst interrupted Trump, there was a “big response” from the crowd, including one man shouting “Get him out of here” and other attendees yelling and pointing at him. Ex. A; Ex. C, p. 35; Ex. B, p. 60; Ex. G, p. 27.
9. Three men seated near Brown stood up, approached him and began to curse and gesture wildly toward him. Ex. C, pp. 41, 47; Ex. A.
10. Brown feared that the three men who approached him might physically harm him. Ex. C, p. 68.
11. Mark Comfort, who was seated next to Brown, observed that one of the men approaching Brown was angry, and fearing the man might resort to violence, Comfort stood up to block the man’s path, urging him to stay calm and to not do anything violent. Ex. G, pp. 28-32.
12. The man pushed past Comfort and got “nose-to-nose” with Brown. Ex. G, p. 31.

13. Exhibit C-1 is a screen shot depicting Brown face-to-face with the angry man who approached him. Ex. C, pp. 42-43; Ex. C-1 (originally marked at deposition as Ex. A-2).
14. The man depicted in Exhibit C-1 facing Brown was angry, acting aggressively and cursing at him. Ex. C, pp. 46-48.
15. Exhibit C-1 also depicts two other men who also stood up and approached Brown while yelling and cursing at him. Ex. C, pp. 43, 48-49.
16. Boettigheimer was stationed at the front of the auditorium when he heard a “a very loud out-of-place laugh” which he believed was made to intentionally disrupt the event. Ex. B, pp. 59, 63.
17. Boettigheimer observed that the laughter “caused a larger disturbance,” and as he approached the front rows, he observed Brown “was currently engaged in a disturbance with other people.” Ex. B, pp. 59, 63.
18. Boettigheimer observed Brown yelling and pointing at other individuals in the crowd. Ex. B, p. 60.
19. Bottigheimer believed that Brown had created the disturbance and was continuing to cause a disturbance in order to interrupt the event. Ex. B, p. 63.
20. As Brown continued to engage in the confrontation with the other audience member, the crowd’s response grew louder and more agitated. Additional audience members took to their feet, and a chant erupted. Ex. A (00:16-00:30).
21. Boettigheimer felt the disturbance “was getting too large” and they “needed to quell it immediately” in order to prevent it from escalating or becoming violent. Ex. B, p. 67; Ex. H, Affidavit of Boettigheimer, ¶ 9.

22. Boettigheimer, with the assistance of Korte, escorted Brown out of the auditorium. Ex. D p. 27, 64; Ex. A (00:46-01:20).
23. As Brown was led away from his seat by Boettigheimer and Korte, Brown continued to turn around and yell while being escorted out. Ex. B, p. 64; Ex. A (00:46-01:20).
24. Boettigheimer arrested Brown because he created a disturbance with and was continuing to engage in a disturbance with other audience members: “If it was just a laugh and it went away, we probably wouldn't have done anything.” Ex. B, p. 61; Ex. H, Affidavit of Boettigheimer, ¶¶ 8-9.
25. Boettigheimer placed Brown under arrest for a violation of the City’s peace disturbance ordinance. Ex. C, p. 61; Ex. B, p. 71.
26. During the Trump rally, Harden had been waiting on standby in a hallway, and Harden was not in the auditorium and did not arrest Brown. Ex. E, Deposition of Harden, pp. 34, 37.
27. Following Brown’s arrest, Harden transported Brown to the Central Patrol Division on Jefferson Avenue. Ex. E, pp. 28, 37-38.
28. Brown was held at the police station on Jefferson Avenue for about an hour and then he was released. Ex. C, p. 65.
29. On March 11, 2016 Steiger was working as a detective at the Central Patrol Division at 919 North Jefferson Avenue. Ex. F, Deposition of Steiger, p. 11.
30. Steiger was located at Central Patrol throughout the duration of the Trump rally. Ex. F, p. 22.
31. Steiger played no role in the arrest of any individuals at the Trump rally. Ex. F, p. 23.

32. Following the Trump rally, Steiger prepared the incident report documenting arrests made during the Trump rally. Ex. F, p. 23, 24.
33. Steiger took at least a week to prepare the incident report. Ex. F, p. 24.
34. In order to prepare the incident report, Steiger watched videos from the Trump rally, reviewed the summonses issued to arrestees, viewed photos of arrestees, and tried to speak to as many police officers present as possible. Ex. F, pp. 25-26, 28, 31-32.
35. Boettigheimer did not know Brown prior to arresting him on March 11, 2016 and was unaware of his political beliefs or affiliations. Ex. H, Affidavit of Boettigheimer, ¶ 7.
36. Korte had never seen Brown prior to the day of his arrest. Ex. D, p. 24.
37. Brown has no reason to believe that his arresting officers knew who he was or knew his name prior to his arrest on March 11, 2016. Ex. C, pp. 58-59, 62.
38. Police Department Special Order 1-06 states that “[i]t is the policy of the St. Louis Metropolitan Police Department to ensure the protection and preservation of every person’s Constitutional rights.” Ex. I, Special Order 1-06, p. 1.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on February 12, 2021 the foregoing was electronically filed with the Clerk of the Court and served upon all attorneys of record.

/s/ Erin K. McGowan